



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Office of Research, Planning, and Performance

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Arnold Schwarzenegger
Governor

TO: Patricia Leary
Senior Engineer
Central Valley Regional Water Quality Control Board
Compliance and Enforcement
NPDES Section

FROM: Gerald Horner, Economist
ghorner@waterboards.ca.gov

DATE: March 5, 2008

SUBJECT: DETERMINATION OF THE CITY OF PLACERVILLE AS A SMALL
COMMUNITY WITH A FINANCIAL HARDSHIP

I have been requested by Randy Pesses, Public Works Director, City of Placerville, to determine whether the Placerville service area meets the eligibility criteria for a Small Community with a Financial Hardship (SCFH) pursuant to Water Code section 13385(k) for the purposes of allowing the City to apply the Minimum Mandatory Penalty to compliance projects (letter, December 4, 2007).

As you know, the Water Quality Enforcement Policy is currently being revised and was published on January 8, 2008 for a 30 day review period. The Policy has not been formally adopted by the Water Board but I used the criteria listed in that draft document to determine that the City of Placerville's is a SCFH. The specific proposed criteria are as follows.

California Water Code section 11385(k)(2) defines "small community" as "a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the State board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works."

It is the policy of the State Water Board that "rural county" means a county classified by the Economic Research Service, United States Department of Agriculture (ERS, USDA) with a rural-urban continuum code of four through nine.

It is the policy of the State Water Board that "financial hardship" means that the community served by the POTW meets one of the following criteria:

1. **Median household income** (The median income divides the income distribution into two equal groups, one having incomes above the median, and the other having incomes below the

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median.) for the community is less than 80% of the California median household income;

2. The community has an unemployment rate (All civilians 16 years old and over are classified as unemployed if they (1) were neither "at work" nor "with a job but not at work" during the reference week, and (2) were actively looking for work during the last 4 weeks, and (3) were available to accept a job. Also included as unemployed are civilians who did not work at all during the reference week, were waiting to be called back to a job from which they had been laid off, and were available for work except for temporary illness.) of 10% or greater; or
3. 30% of the population is below the poverty level (Following the Office of Management and Budget's (OMB's) Directive 14, the Census Bureau uses a set of money income thresholds that vary by family size and composition to detect who is poor. If the total income for a family or unrelated individual falls below the relevant poverty threshold, then the family or unrelated individual is classified as being "below the poverty level.").

It is the policy of the State Water Board that "median household income" "unemployment rate", and "poverty level" of the community is based on the most recent U.S. Census block group (A subdivision of a census tract (or, prior to 2000, a block numbering area). A block group is the smallest geographic unit for which the Census Bureau tabulates sample data. A block group consists of all the blocks within a census tract with the same beginning number. Example: block group 3 consists of all blocks within a 2000 census tract numbering from 3000 to 3999. In 1990, block group 3 consisted of all blocks numbered from 301 to 399Z.) data or a local survey approved by the State Water Board.

A map of the Placerville service area was overlaid on the US Census block group map to determine the population, medium household income, and the employment and poverty rates for the City. Using the proposed criteria, the City of Placerville can not be considered a "small community with a financial hardship" because the population of the sewer service area exceeds 10,000. Although the US Census estimated the 2000 population of Placerville at 9,610, the 2006 population is estimated at 10,086 (see attached). However the city population is not the relevant parameter. California Water Code section 11385(k)(2) defines "small community" as "a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county." To determine the population of the service area a map of the service area was overlaid on a city map (see attached). The City's area is 3,489 acres and the sewer service area is 5,700 acres or 39 percent larger than the City. A street map was overlaid to determine the population density of the areas outside the City boundaries but inside the service area. The resulting map is attached and it shows that numerous streets exist in the area outside of the City that currently supports residential structures. Therefore the population of the service area is in excess of the 10,000 statutory limit.

cc: Randy Pesses, Public Works Director
City of Placerville
3101 Center Street
Placerville, Ca 95667

Attachment

California Environmental Protection Agency

US Census American Factfinder, 1990, 2000, and 2006 Population Estimate for Placerville, CA

U.S. Census Bureau

American FactFinder

Population

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The 2006 population estimate for Placerville city, California is 10,086.

Note: Information about challenges to population estimates data can be found on the [Population Estimates Challenges](#) page.

View population trends...

	2006	2000	1990
Population	10,086	9,610	8,355

Source: U.S. Census Bureau, 2006 Population Estimates, Census 2000, 1990 Census

Map of Placerville Sewer Service Area and the City of Placerville.

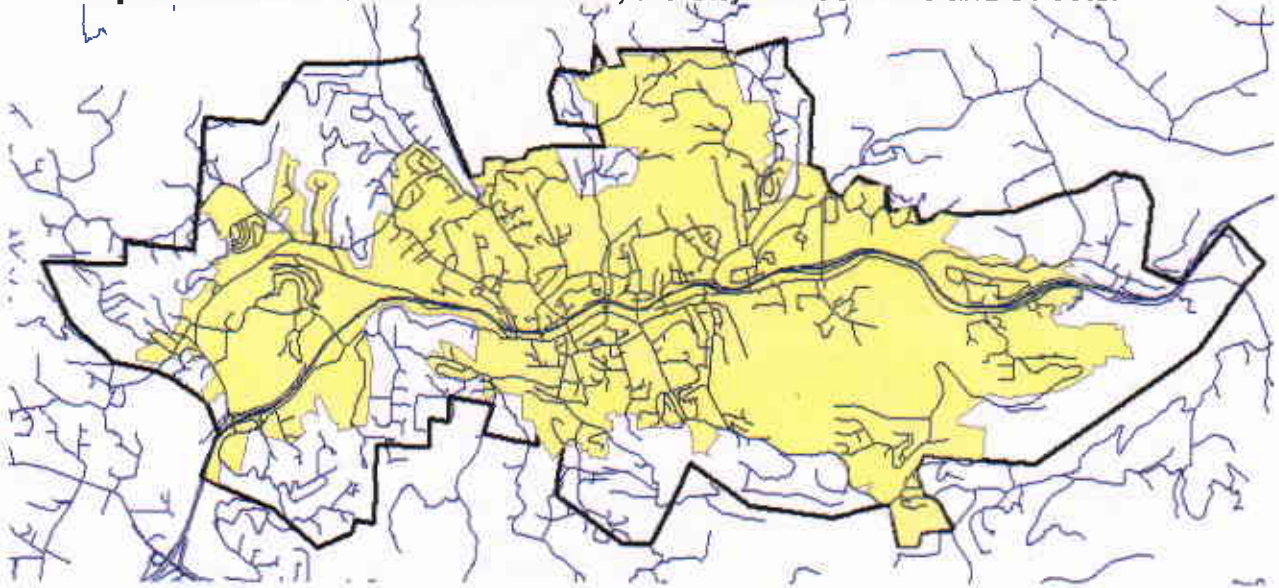


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Map of Placerville Sewer Service Area, the City of Placerville and Streets.





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Arnold Schwarzenegger
Governor

May 28, 2008

Roberta L. Larson
Somach Simmons & Dunn
813 Sixth Street, Third Floor
Sacramento CA 95814

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0522-CITY OF PLACERVILLE

Dear Ms. Larson:

This is in response to your May 21 request for the basis of my decision regarding the negative determination of the City of Placerville Sewer Service Area (CPSSA) as Small Community with a Financial Hardship (SCFH).

You have specifically requested: 1) the methodology used to calculate the population outside of the City of Placerville (City) and inside of the CPSSA and 2) whether I considered the number of septic systems within the City.

California Water Code section 11385(k)(2) defines "small community" as "a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the State board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works."

I concluded that the CPSSA did not meet the criteria for a SCFH because the City population exceeded the 10,000 limit and the City comprises an area within the CPSSA. The implicit assumption is that the population of the City was in fact a portion of the population being served by the CPSSA. It is clear that the population residing in the CPSSA is greater than 10,000.

The City has indicated that the population being served is less than 10,000 based on the number of residential accounts and an average number of persons per household. After reviewing the City's data regarding this contention, I do not agree for a number of reasons. First, in addition to the residential accounts, the number of commercial and industrial accounts should be considered. There were 473 commercial establishments in the City of Placerville in the year 2002 employing over 5,000 persons with an annual payroll of almost \$130 million. Annual sales totaled over \$562 million. Second, the number of persons served per household account is low. It does not consider accounts with multiple housing units such as duplexes and apartment complexes.

I did not calculate the population outside of the City and inside of the service area because the data does not exist to do so and a separate census would be required. In any case, this procedure will not give us the population being served by CPSSA due to the number of structures having septic tanks.

California Environmental Protection Agency

Roberta L. Larson
May 28, 2008

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To more accurately determine the population being served by the CPSSA, I would suggest that an analysis of the City's Service Area billing records be conducted.

I am more than happy to discuss this with you further.

Sincerely,

Gerald L. Horner, Economist

cc: Caren Trgovcich, Director, Office of Research, Planning and Performance
Patricia Leary, Central Valley Regional Water Quality Control Board



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Arnold Schwarzenegger
Governor

TO: Patricia Leary, Senior Engineer
Central Valley Regional Water Quality Control Board
Compliance and Enforcement
NPDES Section

FROM: Gerald Horner *at for AH*
Economist

DATE: September 30, 2008

**SUBJECT: DETERMINATION OF THE CITY OF PLACERVILLE AS A SMALL COMMUNITY
WITH A FINANCIAL HARDSHIP**

This memo outlines the procedures used to determine the City of Placerville's status as a Small Community with a Financial Hardship (SCFH).

Randy Pesses, Public Works Director, City of Placerville, requested that the Central Valley Regional Water Board find that the city is a "small community" under the definition outlined in Section 13385(k)(1) in that the population of the city as of the 2000 US Census was 9,610. This determination would allow the city to apply the Minimum Mandatory Penalty to compliance projects (letter to Patricia Leary, November 30, 2007).

California Water Code section 13385(k)(2) defines a "publicly owned treatment works serving a small community" as

"a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works."

Determining whether a given publicly owned treatment works (POTW) is "serving a small community" entails two separate determinations: (1) whether the POTW is either situated within a rural county or has a population of 10,000 or less; and (2) whether the POTW's service area has a "financial hardship."

Rural County/Population Cap

It is the policy of the State Water Board that "rural county" means a county classified by the Economic Research Service, United States Department of Agriculture (ERS, USDA) with a rural-urban continuum code of four through nine. El Dorado County falls outside of this

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designation. The City of Placerville's POTW can still be potentially eligible for a compliance project as long as the population served is no more than 10,000 people.

Financial Hardship

Prior to the recent amendment of Section 13385(k)(2), it was the policy of the State Water Board that "financial hardship" be defined in terms of median household income (MHI). As a result of the recent amendments, the Office of Research, Planning and Performance has identified additional criteria for assessing whether a POTW serves a small community with a "financial hardship." A community served by the POTW must meet one of the following criteria:

1. Median household income for the community is less than 80% of the California median household income;
2. The community has an unemployment rate of 10% or greater; or
3. 30% of the population is below the poverty level (this was subsequently changed to 20%)

Determination

I concluded that the City of Placerville's POTW serves a population of more than 10,000, and therefore does not meet the criteria set in the California Water Code section 13385(k)(2). The basis for this determination was as follows:

The area served by the City of Placerville's POTW (service area) is approximately 5,700 acres, as shown by the yellow highlighted area in Figure 1. The population of the service area is not directly estimated by the US Census. However, the City of Placerville is located within the service area and occupies approximately 3,489 acres (Figure 2) of the service area. The US Census estimates the 2006 population of the City of Placerville at 10,086 and the 2000 population at 9,610. A substantial number of residences and commercial areas exist outside of the City of Placerville and within the service area, and therefore, the population served by the POTW is, in all likelihood, greater than 10,000, using either of the census data, (at the time of the determination I relied on the 2006 data). I assumed that the City of Placerville was providing sewer services to all of the residents within the service area (Figure 3).

These results were reported to you in a memo dated March 5, 2008.

On April 7, 2008 Randy Pesses, City of Placerville Public Works Director, wrote a letter to you that stated I was in error in this determination. Mr. Pesses contended that the consideration of additional information would result in the City of Placerville being designated as a SCFH. Following are the comments from City of Placerville (in italics), followed by my response to each comment:

Comment 1. *The city objected to the use of a standard population density factor to determine the population of the service area.*

A standard population density factor was not used to determine the population of the POTW's service area. Rather the population, area and development of the City of Placerville were compared to the service area and I concluded that the population served by the sewer system exceeded the population of the City of Placerville and therefore the 10,000 criteria. I also concluded that this would be true for the year 2000 when the US Census estimated the population of the City of Placerville at 9,610 using this same approach.

Comment 2. *The map furnished to me did not reflect the community actually served but was based on the watershed boundary of Hangtown Creek.*

The map furnished by City indicating the "City of Placerville Sewer Service Area" does not approximate the watershed known as Hangtown Creek, as shown in Figure 4. The black line in the figure is the watershed boundary, and the blue line is the service area boundary. I concluded that the map furnished by the City depicts the actual Sewer Service Area, and not the watershed boundary.

Comment 3. *Most existing properties outside of the city, but inside the service area and a significant number of existing properties within the city are served by septic systems.*

The existence of properties using septic tanks within the service area was not considered in the initial determination since it was not raised by the City of Placerville as an issue. The number of septic systems located in the service area or the City of Placerville itself was not provided to me. According to Mr. Pesses' letter, 6,470 people are served by the POTW within the city limits. This would mean that more than 3,598 persons residing in the City of Placerville and within the sewer service area are not served by the POTW but are served by septic systems (this would account for more than one third of the population of the city).¹

Comment 4. *Approximately 2,793 city residential accounts and approximately 20 equivalent dwelling units outside the city are currently served by the POTW. Applying an average population density of 2.3 persons per household yields a population served of 6,470.*

I disagree with City of Placerville's estimate that only 20 residential accounts (equivalent dwelling units) exist outside of the city limits but within the service area. An inspection of aerial photos of the service area outside of the city limits indicates a number of residential and commercial parcels. The actual number of structures on the parcels was not estimated but approximated at 450.² The City of Placerville also approximated the population served by

¹ The 2006 population of the city was 10,068 and if the city estimates 6,470 are on sewer systems, then the remaining population (3598 persons) is using septic systems.

² Google Earth and the National Agricultural Imagery Program satellite photos were used to identify developed parcels within the service area. An exact number of residential parcels is difficult to determine because the specific use of a structure cannot be determined without a ground level inspection.

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estimating 2.3 persons per household. This assumes that each account represents a household. Multiple dwelling units normally have a single account and this was not considered in calculating the population served.

Population served also includes employees and customers of commercial and industrial entities. Total employment in the city was 5,078 and represents people that are served by the city. This employment total does not include local, state or federal offices, or schools which also represents people that are served by the POTW. Taking all of this into consideration, I can only conclude that the total population served is greater than the 10,000 person limit.

A letter from John Driscoll, City Manager/City Attorney, City of Placerville, to Wendy Wyels dated June 4, 2008 contained three objections to my determination. The comments and response are as follows:

Comment 1a: There are 150 residential parcels in the Placerville that are on septic systems accounting for a population of 330.

The June 4 letter contains estimates of the number of septic systems that are very different than those made in earlier correspondence. The City of Placerville stated in their April 7, 2008 letter that only 6,470 persons within the service area were connected to the sewer system implying that the remaining population, which would be greater than 3,598 persons, was on a septic system. In contrast, the June 4 letter states that only 150 residential parcels in the City of Placerville use septic systems and that the population served by those systems is only 330.

Comment 1b: There are 40 residential parcels outside of the city with a population of 90 people that are on septic systems.

This is the first estimate of the number of parcels outside the city that are on septic systems. This means that there are 370 people in the service area on septic systems. The result is that if the service area population is greater than 10,370, the city does not meet the section requirements for population served. I maintain the total population of the service area is more than the threshold amount. In addition, customers and employees being served by the city must also be considered in the determination.

Comment 1c: Population estimates made by the California Department of Finance (DOF), rather than the US Census, should have been used in the SCFH determination.

DOF population estimates differ from the US Census in methodology and results but one is not necessarily better than the other. I have opted to use the US Census estimates because of consistency, availability, and the estimates are generally more conservative. A comparison of the population estimates from both agencies is presented in Figure 5. Although DOF estimates are made for midyear and the Census estimates are for the beginning of the year, the graph indicates that DOF population estimates are consistently higher than Census estimates for the years 2000 to 2008.

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SUMMARY

Given the ongoing concerns raised by the City of Placerville regarding the actual population served by the POTW, I suggested that an analysis of the billing records be conducted in a May 28, 2008 letter to Roberta Larson. Absent this analysis, I can only conclude that the City of Placerville does not meet the criteria set forth in Section 13385(k)(2) of the Clean Water Act for the reasons discussed in the responses above.



Figure 1. City of Placerville Sewer Service Area

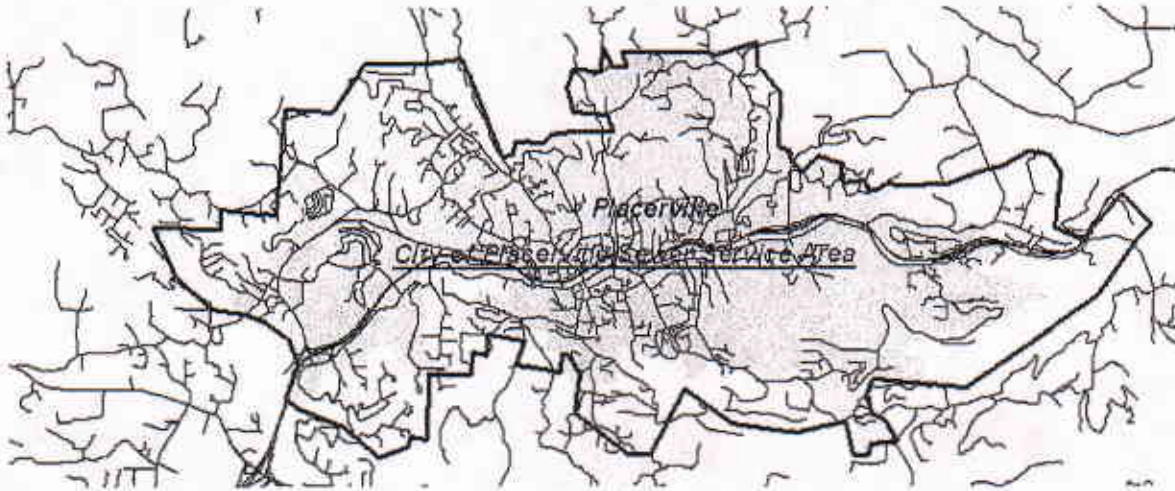


Figure 2. City of Placerville and the Sewer Service Area



Figure 3. City of Placerville, the Sewer Service Area, and Selected Streets



Figure 4. City of Placerville, the Sewer Service Area, and Hangtown Creek Watershed

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Table 1. Commercial and Industrial Firms, Sales, Payroll and Employment 2002

NAICS	Description	Est	Sales (\$m)	Payroll (\$m)	Emp
21	Mining (not published for places)	X	X	X	X
22	Utilities (not published for places)	X	X	X	X
23	Construction (not published for places)	X	X	X	X
31-33	Manufacturing (too small for publication)	z	z	z	z
42	Wholesale trade	10 D		D	(20-99)
44-45	Retail trade	130	286,371	29,229	1,278
	Transportation & warehousing (not published for places)				
48-49		X	X	X	X
51	Information	10 N		4,209	182
52	Finance & insurance (not published for places)	X	X	X	X
53	Real estate & rental & leasing	18	17,391	1,752	81
54	Professional, scientific, & technical services	55	26,208	8,518	233
	Management of companies & enterprises (not published for places)				
55		X	X	X	X
	Administrative & support & waste management & remediation service				
56		21	21,139	6,502	291
61	Educational services	1	D	D	(1-19)
62	Health care & social assistance	112	159,940	64,883	1,933
71	Arts, entertainment, & recreation	4	D	D	(1-19)
72	Accommodation & food services	61	29,341	7,989	753
81	Other services (except public administration)	51	22,055	6,489	327
	Totals	473	562,445	129,571	5,078

Source: Economic Census, US Census, 2002.

Figure 5. California Department Of Finance And US Census Population Estimates For The City Of Placerville, 2000-2008.

